



U.S. Department of Justice

Office of Justice Programs

Washington, D.C. 20531

October 11, 2017

Eddie T. Johnson
Chicago Superintendent of Police
3510 S Michigan Avenue
Chicago, IL 60653-1020

Dear Superintendent Johnson,

Your FY 2016 Byrne JAG grant award required you to comply with 8 U.S.C. § 1373; to undertake a review to validate your jurisdiction's compliance with 8 U.S.C. § 1373; and to submit documentation, including an official legal opinion from counsel, adequately supporting the validation. Thank you for your recent submission. The Department of Justice has reviewed your submission, all attached documentation, and your jurisdiction's laws, policies, and practices relating to compliance with section 1373, to the extent they were provided or are readily available.

This letter is to inform you that, based on a preliminary review, the Department has determined that your jurisdiction appears to have laws, policies, or practices that violate 8 U.S.C. § 1373. These laws, policies, or practices include, but may not be limited to:

- Municipal Code of Chicago § 2-173-042. Under this section, no agency nor agent shall "expend their time responding to [U.S. Immigration and Customs Enforcement ("ICE")] inquiries or communicating with ICE regarding a person's custody status or release date." The Department has determined that this section restricts the sharing of information regarding immigration status in violation of 8 U.S.C. § 1373(a).

Additionally, based on this preliminary review, the Department has noted that the following laws, policies or practices may violate 8 U.S.C. § 1373, depending on how your jurisdiction interprets and applies them. These laws, policies, or practices include, but may not be limited to:

- Municipal Code of Chicago § 2-173-020. Under this section, no agent nor agency shall "assist in the investigation of the citizenship or immigration status of any person." On its face, the Department has determined that this section appears to restrict Chicago police officers' ability to "assist" federal immigration officers by sharing information regarding immigration status with the federal officers. This section, however, allows information

sharing when “required by . . . federal regulation.” In order to comply with 8 U.S.C. § 1373, the Department has determined that Chicago would need to certify that, under this ordinance, section 1373 is treated as a “regulation” (even though it is a federal statute), and that Chicago interprets and applies this section to not restrict Chicago officers and employees from sharing information regarding citizenship and immigration status with federal immigration officers. The Department is thus requesting that Chicago certify that it has communicated this interpretation to its officers and employees. If Chicago cannot provide this certification, the Department has determined that this provision violates section 1373(a).

- Municipal Code of Chicago § 2-173-020. Under this section, no agent nor agency “shall request information about” the “immigration status of any person” unless “required by . . . federal regulation.” Under 8 U.S.C. § 1373(b)(1), however, Chicago may not “in any way restrict” the “requesting” of “information regarding . . . immigration status” from federal immigration officers. On its face, the Department has determined that this section appears to bar Chicago officers from requesting information regarding immigration status from federal immigration officers. In order to comply with 8 U.S.C. § 1373, the Department has determined that Chicago would need to certify that it interprets and applies this section to not restrict Chicago officers and employees from requesting information regarding immigration status from federal immigration officers. The Department has also determined that Chicago would need to certify that it has communicated this interpretation to its officers and employees. If Chicago cannot provide this certification, the Department has determined that this provision violates section 1373(b).
- Municipal Code of Chicago § 2-173-030. Under this section, no agent nor agency “shall disclose information regarding the citizenship or immigration status of any person,” except “as otherwise provided under applicable federal law.” In order to comply with 8 U.S.C. § 1373, the Department has determined that Chicago would need to certify that it interprets and applies this section to not restrict Chicago officers and employees from sharing information regarding citizenship and immigration status with federal immigration officials. The Department has also determined that Chicago would need to certify that it has communicated this interpretation to its officers and employees. If Chicago cannot provide this certification, the Department has determined that this provision violates section 1373(a).

Your jurisdiction may submit a response to this preliminary assessment, as well as any additional evidence you would like the Department to consider, before it reaches its final determination. Please submit all additional documentation by October 27, 2017. Once the Department has had an opportunity to review your submission, the Department will notify you of its final determination.

This letter reflects the Department's preliminary assessment of your jurisdiction's compliance with 8 U.S.C. § 1373. This letter does not constitute final agency action and nothing in this letter creates any right or benefit enforceable at law against the United States. Additionally, as the United States continues to collect information about your jurisdiction, it reserves the right to identify additional bases of potential violations of 8 U.S.C. § 1373.

Sincerely,

A handwritten signature in black ink that reads "Alan R. Hanson". The signature is written in a cursive, slightly stylized font.

Alan Hanson
Acting Assistant Attorney General